

at the end of such chapter immediately following section 2111 an additional section, as follows:

"§ 2112. Record on review and enforcement of agency orders

"(a) The several courts of appeals shall have power to adopt, with the approval of the Judicial Conference of the United States, rules prescribing the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to enjoin, set aside, suspend, modify, or otherwise review or enforce orders of administrative agencies, boards, commissions, and officers, in which the applicable statute does not specifically prescribe such time or manner of filing or contents of the record. Such rules may authorize the agency, board, commission, or officer to file in the court a certified list of the materials comprising the record and retain and hold for the court all such materials and transmit the same or any part thereof to the court, when and as required by it, at any time prior to the final determination of the proceeding. The record in such proceedings shall be certified and filed in or held for the court of appeals by the agency, board, commission, or officer concerned within the time and in the manner prescribed by such rules. If proceedings have been instituted in two or more courts of appeals with respect to the same order the agency, board, commission, or officer concerned shall file the record in that one of such courts in which in its judgment the proceedings may be carried on with the greatest convenience to all the parties involved. The other courts in which such proceedings are pending shall thereupon transfer them to the court of appeals in which the record has been filed.

"(b) The record to be filed in the court of appeals in such a proceeding shall consist of the order sought to be reviewed or enforced, the findings or report upon which it is based, and the pleadings, evidence, and proceedings before the agency, board, commission, or officer concerned, or such portions thereof (1) as the said rules of the court of appeals may require to be included therein, or (2) as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court in any such proceeding may consistently with the rules of such court designate to be included therein, or (3) as the court upon motion of a party or, after a pre-hearing conference, upon its own motion may by order in any such proceeding designate to be included therein. Such a stipulation or order may provide in an appropriate case that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact by the agency, board, commission, or officer is in question all of the evidence before the agency, board, commission, or officer shall be included in the record except such as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court agree to omit as wholly immaterial to the questioned finding. If there is omitted from the record any portion of the proceedings before the agency, board, commission, or officer which the court subsequently determines to be necessary for it to consider to enable it to review or enforce the order in question the court may direct that such additional portion of the proceedings be filed as a supplement to the record. If the rules of the court of appeals in which a proceeding is pending do not require the printing of the entire record in that court

the agency, board, commission, or officer concerned may, at its option and without regard to the foregoing provisions of this subsection, file in the court the entire record of the proceedings before it without abbreviation.

"(c) The agency, board, commission, or officer concerned may transmit to the court of appeals the original papers comprising the whole or any part of the record or any supplemental record, otherwise true copies of such papers certified by an authorized officer or deputy of the agency, board, commission, or officer concerned shall be transmitted. Any original papers thus transmitted to the court of appeals shall be returned to the agency, board, commission, or officer concerned upon the final determination of the review or enforcement proceeding. Pending such final determination any such papers may be returned by the court temporarily to the custody of the agency, board, commission, or officer concerned if needed for the transaction of the public business. Certified copies of any papers included in the record or any supplemental record may also be returned to the agency, board, commission, or officer concerned upon the final determination of review proceedings."

SEC. 3. (a) The sixth sentence of subsection (b) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112), is amended to read as follows: "Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify, or set aside, in whole or in part, any report or any order made or issued by it under this section."

(b) The second and third sentences of subsection (c) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112-113), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite."

(c) Subsection (d) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 113), is amended to read as follows:

"(d) Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive."

SEC. 4. (a) The sixth sentence of the second paragraph of section 11 of the act of October 15, 1914, as amended (64 Stat. 1127), is amended to read as follows: "Until the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section."

(b) The first and second sentences of the third paragraph of section 11 of the act of October 15, 1914, as amended (64 Stat. 1127),

are amended to read as follows: "If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall file the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the application the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission or Board."

(c) The second and third sentences of the fourth paragraph of section 11 of the act of October 15, 1914, as amended (64 Stat. 1128), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission or Board and thereupon the Commission or Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, determined as provided in section 10 (e) of the Administrative Procedure Act, shall in like manner be conclusive."

(d) The fifth paragraph of section 11 of the act of October 15, 1914, as amended (64 Stat. 1128), is amended to read as follows: "Upon the filing of the record with it the jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive."

SEC. 5. The fourth and fifth sentences of the first paragraph of section 2 of the act of July 28, 1916 (39 Stat. 425), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Post Office Department and thereupon the said Department shall file in the court the record, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm, set aside or modify the order of the Department."

SEC. 6. (a) Subsection (c) of section 203 of the Packers and Stockyards Act 1921 (42 Stat. 162) is amended to read as follows:

"(c) Until the record in such hearing has been filed in a court of appeals of the United States as provided in section 204 the Secretary at any time upon such notice and in such manner as he deems proper but only after reasonable opportunity to the packer to be heard may amend or set aside the report or order in whole or in part."

(b) Subsections (b) and (c) of section 204 of the Packers and Stockyards Acts, 1921 (42 Stat. 162), are amended to read as follows:

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, re-

straining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal."

(c) The first sentence of subsection (h) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162), is amended to read as follows:

"(h) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254 of title 28, if such writ is duly applied for within 60 days after entry of the decree."

Sec. 7. (a) The third sentence of paragraph (a) of section 6 of the Commodity Exchange Act (42 Stat. 1001), is amended to read as follows: "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, Chairman of said Commission, or any member thereof, and the said Commission shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code."

(b) The seventh and eighth sentences of paragraph (b) of section 6 of the Commodity Exchange Act (42 Stat. 1002), as amended, are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary of Agriculture and thereupon the Secretary of Agriculture shall file in the court the record theretofore made, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Secretary of Agriculture, and the findings of the Secretary of Agriculture as to the facts, if supported by the weight of evidence, shall in like manner be conclusive."

Sec. 8. The third and fourth sentences of the second paragraph of subsection (b) of section 641 of the Tariff Act of 1930, as amended (49 Stat. 865), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary of the Treasury, or any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part."

Sec. 9. The second sentence of subsection (a) of section 9 of the Securities Act of 1933 (48 Stat. 80) is amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code."

Sec. 10. The second and third sentences of subsection (a) of section 25 of the Securities Exchange Act of 1934 (48 Stat. 901) are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction, to affirm, modify, and enforce or set aside such order, in whole or in part."

Sec. 11. The third sentence of subsection (c) of section 18 of the act of June 18, 1934 (48 Stat. 1002), is amended to read as fol-

lows: "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board and it shall thereupon file in the court the record in the proceedings held before it under this section, as provided in section 2112 of title 28, United States Code."

Sec. 12. The second sentence of subsection (d) of section 402 of the Communications Act of 1934, as amended (46 Stat. 719), is amended to read as follows: "Within 30 days after the filing of an appeal, the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code."

Sec. 13. (a) Subsection (d) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147), is amended to read as follows:

"(d) Until the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it."

(b) The first, second, fifth, and seventh sentences of subsection (e) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147), are amended to read as follows:

"(e) The Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. * * * If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its members, agent, or agency, the court may order such additional evidence to be taken before the Board, its members, agent, or agency, and to be made a part of the record. * * * Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court as hereinafter provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28."

(c) The second and third sentences of subsection (f) of section 10 of the National Labor Relations Act, as amended (61 Stat. 148), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the Board, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and

shall have the same jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive."

Sec. 14. The third and fourth sentences of subsection (h) of section 4 of the Federal Alcohol Administration Act (49 Stat. 980), as amended, are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part."

Sec. 15. The second and third sentences of subsection (a) of section 24 of the Public Utility Holding Company Act of 1935 (49 Stat. 834), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, or any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part."

Sec. 16. (a) Subsection (a) of section 313 of the Federal Power Act, as amended (49 Stat. 860), is amended by inserting at the end thereof an additional sentence reading as follows: "Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify, or set aside, in whole or in part, any find or order made or issued by it."

(b) The second and third sentences of subsection (b) of section 313 of the Federal Power Act, as amended (49 Stat. 860), are amended to read as follows: "A copy of such petition shall forthwith be transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part."

Sec. 17. The second and third sentences of subsection (b) of section 611 of the Merchant Marine Act, 1936, as amended (52 Stat. 961), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Board, or any officer thereof designated by the Board for that purpose, and thereupon the Board shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to determine whether such cancellation or default was without just cause, and to affirm or set aside such order."

Sec. 18. Subsection (c) of section 1006 of the Civil Aeronautics Act of 1938 (52 Stat. 1024), is amended to read as follows:

"(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board